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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,692

03/22/2005

Stephane Deleris

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EXAMINER

BARRY, CHESTER T

ART UNIT

PAPER NUMBER

1724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/528,692	Applicant(s) DELERIS ET AL.	
	Examiner Chester T. Barry	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Objection is made to Claims 7, 5, and 6 because the following typographical and/or grammatical errors appear in claim 7:

“solid / lluid” [*sic*, solid/liquid];

“the washing phase, that provides fixed biological cultures,” [*sic*, the dependent clause without setting-off commas, “the washing phase that provides fixed biological cultures” or the appositive with setting-off commas, “the washing phase, providing fixed biological cultures,”]; and

“ls” [*sic*, is].

Claims 5 – 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, “the washing phase . . . that provides fixed biological cultures” (singular) lacks antecedent basis in “the washing phases” (plural). Viewed another way, it is unclear whether only a particular one of the plural washing phases provides fixed biological cultures, or whether each of the plural washing phases provides fixed biological cultures.

In claim 7, it is unclear whether “a water treatment line” is a water treatment line of the same “wastewater treatment station” that effects reduction in the amount of station sludge, or whether the “water treatment line” can be any line carrying water intended for treatment, e.g., a sewer.

Per claim 7, it is unclear whether “this stage” refers to “this RSP stage,” or some other stage of the process.

Per claim 7’s recital of “selectively,” it is unclear on what basis or decision criterion the “subjecting” step is selected.

It is unclear whether claim 5 is directed to a device, as the recitation “[a] device” would suggest, because no structure appears to be recited. That is, the phrase, “for implementing the method set forth in claim 7,” is merely a statement of intended use that does not define the elements of the so-called device by any structure. Similarly, the phrase, “a reactor substrate source for bacteria” is not itself a structural element of an apparatus for it is said to be “the organic material that is derived from the lysed bacterial cells.” As for the recitation of “an apparatus for reduced sludge production (RSP),” that apparatus is not a limiting structural element of the claim-recited “device,” but rather it merely identifies “an apparatus” by which the “lysed bacterial cells” were “induced.” That is, the recitation of the RSP apparatus in claim 5 serves merely to identify the unclaimed structure by which the cells were lysed. Accordingly, insofar as claim 5 does not recite any structural limitations, it is very confusing how it can be said that this claim is drawn to a device.

Per claim 7, as noted above, the “RSP apparatus” is not the device of claim 5, nor a component part thereof, but rather an unclaimed apparatus by which the “lysed bacterial cells” recited in claim 5 were “induced.” Even if the “RSP apparatus” were the device or component part thereof of claim 5, stating that the RSP apparatus is supplied with material by a particular processing step, e.g., “continuously by withdrawing sludge .

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... [etc.]” does not further limit the structure of claim 7. Moreover, merely identifying the separator-thickener structure by which the sludge supplied to the unclaimed RSP apparatus is collected does not clearly state that the separator-thickener is itself a structural element of the claimed device. Similarly, the recited “biological treatment reactor” is not clearly recited as an element of the claimed device.

If applicants intended to claim an apparatus having structural elements A, B, and C, the purpose of which apparatus was to perform the method of claim 7, then applicants should consider drafting a claim that reads as follows to overcome possible Sec 112, 2nd paragraph, rejections: A device for carrying out the method of claim 7, the apparatus comprising: Element A; Element B; and Element C.

Claims 5 – 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted state of the prior art. At best,¹ claims 5 – 6 are structurally defined by only “an RSP apparatus.” Applicants describe as much at pages 2 - 3 of their specification in their description of the prior art RSP apparatus installation.

Figure 1 must be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g) and page 2, lines 19 and 32, “known installation” and page 3 line 34 “prior art.” See also page 4 line 19. Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled

¹ Please see Sec. 112 rejection of claims 5-6.

"Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims 5 – 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rozich.

A handwritten signature in black ink, appearing to read 'CTB', with a long horizontal stroke extending to the right.

CHESTERT.T.BARRY
PRIMARY EXAMINER

571-272-1152